IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SIXTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 3580 of 2004

Between:

Rama Educational Society, rep by Correspondent A. Sridhar Sharma, S/o A. Subrahmanyam, R/o 16-26-5, Manurivari Street, Peddakota, Old Guntur, Guntur District-1

..... PETITIONER

AND

1 The Government of Andhra Pradesh, rep by Principal Secretary, Education Department, Secretariat, Buildings, Hyderabad
2 The Commissioner and Director of School Education, Saifabad, Hyderabad

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue Writ, order or direction, more particularly one in the nature of Writ of Mandamus, declaring the action of the respondents in rejecting the application of the petitioner's society by their proceedings in Memo No. 19389/Trg-2/2003-3 dated 05-02-2004 issued by the Government and set aside the same and consequently declare that the petitioner's society i.e., Rama Educational Society, Guntur is entitled for according permission by granting No. Objection Certificate for the establishment of Telugu pandit and Hindi Pandit Training Centers at Guntur for the academic year 2004-2005 on par with similarly situated institutions.

Counsel for the Petitioner : SMT. K.SWARNA SESHU

Counsel for the Respondents : GP FOR EDUCATION

The Court made the following :

THE HON'BLE MS. JUSTICE G.ROHINI

WRIT PETITION NO.3580 OF 2004

ORDER :

The petitioner society intended to start Hindi & Telugu Pandit Training Centres at Guntur for the academic year 2004-05. Accordingly, the petitioner Society made an application dated 13-10-2003 to the 1st respondent – Government of A.P. seeking permission and No Objection Certificate stating that the petitioner society is financially sound and they are ready with the required infrastructural facilities for intake capacity of 100 seats in each course. The said application was forwarded to the 2nd respondent – Commissioner & Director of School Education vide memo dated 12-12-2003. In pursuance thereof, the second respondent submitted his report on 3-1-2004 stating that as per G.O.Ms.No.398, dated 4-12-1997, the applications for the establishment of Training Colleges can be considered only after a notification is issued. Subsequently, the 1st respondent by memo dated 5-2-2004 informed the petitioner that their request for permission to start training centres is rejected. The said action of the 1st respondent is impugned in this writ petition contending that

even in the absence of a notification in terms of G.O.Ms.No.398, dated 4-12-1997, N.O.C. was granted to some of the institutions and therefore the rejection of the request of the petitioner Society only on the ground that there was no notification as arbitrary, illegal and discriminatory.

In the affidavit filed in support of the writ petition, it is stated that the No Objection Certificate has been granted to one Vani Educational Society, Peddapalli, Karimnagar District vide G.O.Ms.No.125, Education (Trg.2) Department, dated 17-10-2003 and NOC has also been granted to another institution namely Crescent Educational Academy, Kuppam, vide G.O.Rt.No.1306, Education (SE-TRG-2) Department, dated 14-11-2003 and thus it is contended that the respondents ought to have considered the request of the petitioner on par with the said institutions.

On behalf of the respondents, the Deputy Director in the Office of the Commissioner & Director of School Education filed a counter-affidavit stating that as per the guidelines issued in G.O.Ms.No.398, Education, dated 4-12-1997, the 1st respondent issued a notification dated 28-9-2000 inviting applications from the Private Registered Educational Societies for issuance of No Objection Certificate for opening of New Pandit Colleges with intake capacity of maximum 50/100. However, the petitioner did not apply in pursuance of the said notification and made an application much thereafter on 13-10-2003. As per G.O.Ms.No.398, Education, dated 4-12-1997, a notification has to be issued calling for the applications from the Registered Societies for establishment of Pandit Training Colleges as per manpower assessment and in the absence of such a notification, individual applications cannot be considered. Hence, the request of the petitioner was rightly rejected under the impugned memo dated 5-2-2004. It is also stated that N.O.C. was granted to Vani Educational Society, Peddapalli, since they made the application seeking permission to establish the Telugu Pandit Training College much prior to G.O.Ms.No.398, dated 4-12-1997. Since their application was pending by the date of issuance of G.O.Ms.No.398, dated 4-12-1997 they were granted permission subject to fulfillment of conditions specified thereunder. Hence, the allegations of the petitioner are without any basis and the Writ Petition is liable to be dismissed.

I have heard the learned Counsel for both the parties and perused the material on record.

It is not in dispute that as per G.O.Ms.No.398, dated 4-12-1997 a notification has to be issued on the basis of the assessment of the educational needs of the locality inviting applications for setting up the institutions. Unless the educational needs of the locality are assessed and a notification is issued inviting applications for setting up the institutions, the request of the individuals for grant of N.O.C. cannot be considered. In the case on hand, such a notification was issued on 28-9-2000 and in pursuance thereof the applications received were processed and the deserving applicants were granted N.O.C. However the petitioner did not apply for N.O.C. in pursuance of the notification dated 28-9-2000. He made an application much thereafter on 13-10-2003. Since evidently it is not on the basis of the notification issued under G.O.Ms.No.398, dated 4-12-1997, the 1st respondent has rightly rejected the request under the impugned Memo and I do not find any justifiable reason to interfere with the same.

However, the learned Counsel for the petitioner contends that N.O.C. has been granted to two other institutions which are similarly situated and therefore the action of the respondents is discriminatory. Even assuming that the said societies were granted permission in violation of the statutory requirement, the same cannot be taken as a precedent. The judicial process cannot be taken aid to perpetuate illegalities if the order in favour of the other two institutions is found to be contrary to law or unwarranted. Such illegal order cannot be made the basis for issuing a Writ compelling the respondents to repeat the illegality or to pass another unwarranted order. Hence, the mere fact that the respondents granted N.O.C. in the case of two other institutions alleged to be similarly situated can never be the ground for issuing a Writ in favour of the petitioner on the ground of discrimination.

In the light of the facts and circumstances of the present case, I am of the opinion that the impugned order passed by the 1st respondent cannot be found fault with and the interference of this Court is not warranted. However, it is made clear that this shall not preclude the petitioner to apply for permission whenever the

notification is issued, in which event the request of the petitioner shall be considered in accordance with law.

The Writ Petition is accordingly disposed of. No costs.

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6th April, 2005.

Note:- Cc in 2 days.

(B/O)

Gbs

To

1 The Principal Secretary, Government of Andhra Pradesh, Education Department, Secretariat, Buildings, Hyderabad
2 The Commissioner and Director of School Education, Saifabad, Hyderabad

3. Two CCs to G.P. for Education, High Court of AP Bldgs, Hyderabad (OUT).

4. 2 CD copies